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*Attorneys for Pacific Alliance Asia Opportunity Fund, L.P.*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:	:	Chapter 11
	:	
GENEVER HOLDINGS LLC,	:	Case No. 20-12411-jlg
	:	
Debtor.	:	
	:	

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**DECLARATION OF EDWARD MOSS, ESQ., IN SUPPORT OF PACIFIC ALLIANCE  
ASIA OPPORTUNITY FUND L.P.'S MOTION TO MODIFY THE AUTOMATIC STAY  
TO PROCEED WITH STATE COURT LITIGATION, AND RELATED RELIEF**

Pursuant to 28 U.S.C. §1746, Edward Moss, Esq., declares as follows:

1. I am a partner at O'Melveny & Myers LLP, co-counsel to Pacific Alliance Asia Opportunity Fund L.P. ("PAX") in connection with the above-captioned Chapter 11 case.

O'Melveny & Myers also has represented PAX since April 2017 in a New York state litigation against Miles Kwok ("Kwok"), Genever Holdings LLC (the "Debtor"), and Genever Holdings Corporation ("Genever BVI") (the "State Court Action").<sup>1</sup>

2. I submit this Declaration in support of PAX's Motion to Modify the Automatic Stay to Proceed with State Court Litigation, and Related Relief.

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<sup>1</sup> The State Court Action is *Pacific Alliance Asia Opportunity Fund L.P. v. Kwok et al.*, Index No. 652077/2017 (N.Y. Cnty. Sup. Ct.).

3. I have knowledge of the facts set forth in the Declaration based on my involvement in representing PAX in the State Court Action. If called upon to testify, I would testify competently regarding the facts set forth herein.

**Documents Appearing on the State Court Action Docket**

4. Attached as Exhibit 1 is a true and accurate copy of a document filed publicly by Kwok in the State Court Action at docket number 12.

5. Attached as Exhibit 2 is a true and accurate copy of a letter filed publicly by PAX in the State Court Action at docket number 452.

6. Attached as Exhibit 3 is a true and accurate copy of a document filed publicly by Kwok in the State Court Action at docket number 16.

7. Attached as Exhibit 4 is a true and accurate copy of a document filed publicly by Kwok in the State Court Action at docket number 17.

8. Attached as Exhibit 5 is a true and accurate copy of a document filed publicly by Kwok in the State Court Action at docket number 18.

9. Attached as Exhibit 6 is a true and accurate copy of a document filed publicly by Kwok in the State Court Action at docket number 19.

10. Attached as Exhibit 7 is a true and accurate copy of a document filed publicly by Kwok in the State Court Action at docket number 20.

11. Attached as Exhibit 8 is a true and accurate copy of a document filed publicly by Kwok in the State Court Action at docket number 21.

12. Attached as Exhibit 9 is a true and accurate copy of a document filed publicly by Kwok in the State Court Action at docket number 22.

13. Attached as Exhibit 10 is a true and accurate copy of Kwok's complaint in *Wengui v. Wu*, Case No. 18-cv-845-RA (S.D.N.Y. 2018), which was filed publicly by PAX in the State Court Action at docket number 482.
14. Attached as Exhibit 11 is a true and accurate copy of excerpts of a document filed publicly by PAX in the State Court Action at docket number 481.
15. Attached as Exhibit 12 is a true and accurate copy of a document filed publicly by PAX in the State Court Action as a portion of docket number 289.
16. Attached as Exhibit 13 is a true and accurate copy of documents filed publicly by Kwok in the State Court Action at docket numbers 182–84.
17. Attached as Exhibit 18 is a true and accurate copy of documents filed publicly by PAX in the State Court Action at docket numbers 254–55.
18. Attached as Exhibit 21 is a true and accurate copy of a document filed publicly by PAX in the State Court Action at docket number 485.
19. Attached as Exhibit 22 is a true and accurate copy of a document filed publicly by PAX in the State Court Action at docket number 486.
20. Attached as Exhibit 23 is a true and accurate copy of a document filed publicly by PAX in the State Court Action at docket number 487.
21. Attached as Exhibit 24 is a true and accurate copy of a document filed publicly by PAX in the State Court Action at docket number 460.
22. Attached as Exhibit 25 is a true and accurate copy of PAX's Memorandum of Law in Support of its Motion for Pre-Judgment Order of Attachment, which was filed publicly in the State Court Action at docket number 28.

23. Attached as Exhibit 26 is a true and accurate copy of a document filed publicly by PAX in the State Court Action at docket number 221.

24. Attached as Exhibit 27 is a true and accurate copy of a document filed publicly by PAX in the State Court Action at docket number 227.

25. Attached as Exhibit 28 is a true and accurate copy of a document filed publicly by PAX in the State Court Action at docket number 223.

26. Attached as Exhibit 30 is a true and accurate copy of a document filed publicly by PAX in the State Court Action at docket number 259.

27. Attached as Exhibit 31 is a true and accurate copy of a document filed publicly by PAX in the State Court Action at docket number 260.

28. Attached as Exhibit 32 is a true and accurate copy of a document filed publicly by PAX in the State Court Action at docket number 231.

29. Attached as Exhibit 33 is a true and accurate copy of a document filed publicly by PAX in the State Court Action at docket number 240.

30. Attached as Exhibit 35 is a true and accurate copy of Kwok's Responses and Objections to Plaintiff's Amended First Set of Interrogatories in the State Court Action, which was filed publicly by PAX at docket number 246.

31. Attached as Exhibit 36 is a true and accurate copy of a document filed publicly by PAX in the State Court Action at docket number 261.

32. Attached as Exhibit 38 is a true and accurate copy of PAX's Reply Memorandum of Law in Support of its Motion for Pre-judgment Order of Attachment, filed publicly in the State Court Action at docket number 186.

33. Attached as Exhibit 39 is a true and accurate copy of a document filed publicly by PAX in the State Court Action at docket number 264.

34. Attached as Exhibit 40 is a true and accurate copy of a document filed publicly by PAX in the State Court Action as a portion of docket number 231.

35. Attached as Exhibit 41 is a true and accurate copy of the transcript of the proceedings held in the State Court Action on March 8, 2019, which was filed publicly in the State Court Action at docket number 281.

36. Attached as Exhibit 42 is a true and accurate copy of an April 26, 2019 Decision and Order on PAX's Motion for Pre-judgment Attachment in the State Court Action, which was filed publicly at docket number 330.

37. Attached as Exhibit 44 is a true and accurate copy of a July 7, 2020 Decision and Order on PAX's Motion for Costs and Sanctions in the State Court Action, which was filed publicly at docket number 404.

38. Attached as Exhibit 45 is a true and accurate copy of excerpts from the transcript of a July 7, 2020 hearing in the State Court Action, which was filed publicly at docket number 406.

39. Attached as Exhibit 46 is a true and accurate copy of a document filed publicly by PAX in the State Court Action at docket number 11.

40. Attached as Exhibit 47 is a true and accurate copy of a joint letter filed publicly in the State Court Action at docket number 325.

41. Attached as Exhibit 48 is a true and accurate copy of Kwok's Memorandum of Law in Support of his Motion to Dismiss, which was filed publicly in the State Court Action at docket number 8.

42. Attached as Exhibit 49 is a true and accurate copy of Kwok's Memorandum of Law in Opposition to PAX's Motion for Partial Summary Judgment, which was filed publicly in the State Court Action at docket number 495.

43. Attached as Exhibit 50 is a true and accurate copy of a September 15, 2020 Decision and Order on PAX's Motion for Partial Summary Judgment in the State Court Action, which was filed publicly at docket number 549.

44. Attached as Exhibit 51 is a true and accurate copy of PAX's Memorandum of Law in Support of its CPLR 5229 Motion and Request for TRO, which was filed publicly in the State Court Action at docket number 576.

45. Attached as Exhibit 52 is a true and accurate copy of a September 30, 2020 Decision and Order on PAX's CPLR 5229 Motion and Request for TRO in the State Court Action, which was filed publicly at docket number 591.

46. Attached as Exhibit 53 is a true and accurate copy of an October 15, 2020 Decision and Order on PAX's CPLR 5229 Motion and Request for TRO in the State Court Action, which was filed publicly at docket number 630.

47. Attached as Exhibit 54 is a true and accurate copy of excerpts from the transcript of an October 15, 2020 hearing in the State Court Action, which was filed publicly at docket number 647.

48. Attached as Exhibit 67 is a true and accurate copy of excerpts from the transcript of a September 30, 2020 hearing in the State Court Action, which was filed publicly at docket number 594.

### **Deposition Transcripts**

49. Attached as Exhibit 14 is a true and accurate copy of excerpts from the transcript of the December 11, 2019 deposition of Daniel Podhaskie, as corporate representative of the Debtor and Genever BVI, which was conducted in the State Court Action.

50. Attached as Exhibit 17 is a true and accurate copy of excerpts from the transcript of Michael Ullman's September 24, 2018 deposition, which was conducted in the State Court Action.

51. Attached as Exhibit 19 is a true and accurate copy of excerpts from the transcript of the October 3, 2018 deposition of Kwok, in his personal capacity and as a corporate representative of the Debtor and Genever BVI, which was conducted in the State Court Action.

52. Attached as Exhibit 20 is a true and accurate copy of excerpts from the transcript of Michael Horvitz's April 9, 2019 deposition, which was conducted in the State Court Action.

53. Attached as Exhibit 37 is a true and accurate copy of excerpts from Yan Ping Wang's October 11, 2018 deposition, which was conducted in the State Court Action.

54. Attached as Exhibit 43 is a true and accurate copy of excerpts from the transcript of the December 11, 2019 deposition of Kwok conducted in the State Court Action.

### **Documents Produced to PAX in the State Court Action**

55. Attached as Exhibit 15 is a true and accurate copy of documents produced to PAX in the State Court Action by the Sherry-Netherland, Inc., bearing Bates numbers SN 0349–78.

56. Attached as Exhibit 16 is a true and accurate copy of documents produced to PAX in the State Court Action by the Sherry-Netherland, Inc., bearing Bates numbers SN 0083–85.

57. Attached as Exhibit 55 is a true and accurate copy of documents produced to PAX in the State Court Action by the Sherry-Netherland, Inc., bearing Bates numbers SN 0086–87.

58. Attached as Exhibit 64 is a true and accurate copy of a document produced to PAX in the State Court Action by the Sherry-Netherland, Inc., bearing Bates number SN 0056.

59. Attached as Exhibit 66 is a true and correct copy of a document produced to PAX in the State Court Action by Kwok, bearing Bates numbers KWOK000510–513.

**Documents from the BVI**

60. Attached as Exhibit 57 is a true and correct copy of an order entered by the Eastern Caribbean Supreme Court, Virgin Islands, in the High Court of Justice Commercial Division (the “BVI Court”) on April 27, 2020 (the “First Disclosure Order”), which I received from counsel for PAX in the BVI, Appleby Global (“Appleby”). A further disclosure order was made on October 30, 2020, but I am not yet in a position to provide the Court with copies of the documents produced pursuant to that order, on account of Bravo Luck’s pending application in the BVI to conceal those documents from this Court.

61. Attached as Exhibit 58 is a true and correct copy of a disclosure of Bravo Luck’s Register of Members, which I received from Appleby. This document was disclosed by Vistra (BVI) Limited, the Registered Agent of Bravo Luck, pursuant to the disclosure order which the BVI Court made on April 27, 2020.

62. Attached as Exhibit 61 is a true and correct copy of the Second Affirmation of Kwok Ho Wan, filed in the first of the BVI actions on September 1, 2020, which I received from Appleby.

63. Attached as Exhibit 62 is a true and correct copy of email disclosures made in the BVI Action to Appleby, which I received from Appleby, again pursuant to the First Disclosure Order.



64. Attached as Exhibit 65 is a true and correct copy of a Search Report for Bravo Luck Limited conducted with the BVI Financial Services Commission, Registry of Corporate Affairs, which I received from Appleby. I understand that the BVI Financial Services Commission maintains an online search portal to which law firms in the BVI subscribe, and that this is an available document upon such a search.

### **Correspondence**

65. Attached as Exhibit 34 is a true and accurate copy of an April 22, 2019 email from Kwok's then-counsel Jillian M. Searles of Hodgson Russ LLP to me.

66. Attached as Exhibit 63 is a true and accurate copy of a November 9, 2020 letter from Kwok's current counsel at Baker Hostetler LLP to me.

67. Over the past two months, I have spoken on the telephone several times with counsel for the Debtor, who informed me that the Debtor wishes to sell the Residence in the context of this proceeding. On December 3, 2020, counsel for the Debtor sent me an email confirming these discussions and attached a draft Motion to Approve Bid Procedures to sell the Residence in this proceeding and a draft Declaration in Support of Debtor's Motion to Approve a Sale of Real Property at Public Auction and Related Bid Procedures.

### **Other Documents**

68. Attached as Exhibit 29 is a true and accurate copy of a StreetEasy webpage listing for 781 Fifth Avenue #18 in New York, New York, which (as of today) can be accessed at <https://streeteasy.com/building/sherry-netherland/18th-floor/>.


69. Attached as Exhibit 56 is a true and correct copy of a notice of application for leave to apply for judicial review, filed in the High Court of Hong Kong by Anton Development Limited. I received this document from attorneys at O'Melveny & Myers' Hong Kong office.

70. Attached as Exhibit 59 is a true and accurate copy of a Broadcast China article titled “Brokerage Deal Sheds Light on Fugitive Tycoon’s Tie with Abu Dhabi, Tony Blair,” which (as of today) can be accessed at <https://www.followcn.com/brokerage-deal-sheds-light-fugitive-tycoons-tie-abu-dhabi-tony-blair/>.

71. Attached as Exhibit 60 is a true and accurate copy of a Caixin Global article titled “In Depth: How Fugitive Billionaire Guo Wengui Lured Abu Dhabi Investors into the Mire,” which (as of today) can be accessed at <https://www.caixinglobal.com/2017-07-29/how-fugitive-billionaire-guo-wengui-lured-abu-dhabi-investors-into-the-mire-101123927.html>.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 16, 2020

  
Edward Moss